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Mr

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/579,285 05/30/00 ADAMS

N 6745

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PM82/0801

EXAMINER

ARK, D	
ART UNIT	PAPER NUMBER

3643

DATE MAILED:

08/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/579,285

Applicant(s)

ADAMS ET AL.

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because there is no mention of Figure 16 under the section "Description of the Drawings" on pages 6 and 7. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claim 9 is objected to because of the following informalities:

Claim 9, line 2, "connecting" should be changed to "generating".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to claims 20-23, these claims set forth "the method of claim 19" which is improper since claim 19 sets forth "the fishing sinker of claim 11". Furthermore, the claims also recite specific steps in forming the sinker instead of claiming the structure of the desired invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7, 10, 11, 14-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wohead 3,670,447.

Wohead discloses an elongated body (12, 13) with a line connection end (29) and a free end (15, 25) and a noise generating element (28) comprising a tubular element (14) with balls (28) and that is constructed of metal (23 made of metal).

In reference to claims 7 and 11, Wohead discloses a body (12) including a weighted portion (23) and a noise generating element (28) connected thereto.

In reference to claim 10, Wohead discloses a buoyant portion (13) and a weighted portion (23).

7. Claims 1, 5-8, 10, 11, 13-15, 19, 21, 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by LaForce 3,852,906.

In reference to claim 1, LaForce discloses a body (11) and a noise generating element (C can generate noise by bumping into objects).

In reference to claim 7, LaForce discloses a weighted portion (11 made of metal, 12 made of metal, 13 has ballast 14 of lead or soft iron) with a specific gravity greater than water and a noise generating element (C) connected with the weighted portion.

In reference to claims 8 and 19, LaForce discloses the noise generating element molded into the weighted section (see Fig. 1).

In reference to claim 10, LaForce discloses the body including a buoyant portion (a) and a weighted portion (13).

In reference to claim 13, Tharp et al. discloses a first weighted portion (13, 14), a second weighted portion (12 made of metal), wherein the buoyant portion (a) is between the first and second weighted sections and wherein the noise generating element (C) is connected with the first weighted section.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8, 19, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohead 3,670,447.

Wohead discloses the claimed invention except for the noise generating element molded into the weighted portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mold the noise generating element into the weighted portion, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art, and because molding the noise generating element with the weighted portion would assure that the noise generating element does not become easily

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separated therefrom and render the device useless. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

10. Claims 9, 20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohead 3,670,447 in view of Tharp et al. 4,649,662.

Wohead does not disclose an exterior coating covering the body and noise generating element. Tharp et al. discloses a fishing post which may be made of different colors including fluorescent colors such as fluorescent reds and that they may also be made phosphorescent with special coatings and that wooden posts may be painted (coating of paint). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the coating of Tharp et al. on the sinker of Wohead in order to make the sinker a certain color which will draw the attention of the fish to the sinker and therefore to the baited hook so as to catch more fish.

11. Claims 12, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohead 3,670,447 in view of Lysikowski 2,589,715, Dickinson 4,428,144, Rossa 4,750,289, or Rhinehart 5,253,447.

Wohead does not disclose a wire extending substantially through the entirety of the body wherein the wire has an end defining a line connection end. Lysikowski, Dickinson, Rossa, and Rhinehart all disclose a wire extending from a first end for line attachment and also through the body of the sinker and exiting and extending from the free end of the sinker for engagement with the bottom to prevent snagging in either the hook or the sinker. It would have been obvious to a person of ordinary skill in the art at

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the time the invention was made to modify the sinker of Wohead to include the wire member as taught by Lysikowski, Dickinson, Rossa, or Rhinehart to prevent the fishing rig from snagging on bottom obstructions.

12. Claims 8, 19, 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaForce 3,852,906.

Alternatively, LaForce does not disclose noise generating element (C) molded into the weighted portion. It would have been an obvious to a person of ordinary skill in the art to mold the noise generating element of LaForce into the weighted section, since applicant has not stated that by doing so solves any stated problem or is for any particular purpose and it appears that sinker of LaForce would perform equally as well with the noise generating element molded into the weighted section.

13. Claims 9, 20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaForce 3,852,906 in view of Tharp et al. 4,649,662.

LaForce does not disclose an exterior coating covering the body and noise generating element. Tharp et al. discloses a fishing post which may be made of different colors including fluorescent colors such as fluorescent reds and that they may also be made phosphorescent with special coatings and that wooden posts may be painted (coating of paint). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the coating of Tharp et al. on the sinker of LaForce in order to make the sinker a certain color which will draw the attention of the fish to the sinker and therefore to the baited hook so as to catch more fish.

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Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adams 4,964,236 discloses a sinker with a fishing line connection portion formed of a synthetic polymer or plastic material which facilitates coloring of the sinker so as to serve as a fish attractant and Dubois 4,930,247 discloses a metal spinner blade with a rattle chamber with a metal pellet therein where the metal surfaces which bound the chamber generates a rattling sound that is especially attractive to fish.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M, T, Th, & F, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4195 for regular communications and (703) 306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA 
July 30, 2001